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KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
ATLANTA, GA 30309

EXAMINER	
WEST, JEFFREY R	

ART UNIT	PAPER NUMBER
2857	

NOTIFICATION DATE	DELIVERY MODE
11/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipefiling@kilpatrickstockton.com
jlhice@kilpatrick.foundationip.com

Office Action Summary	Application No.	Applicant(s)	
	10/537,027	DEN HEUVEL ET AL.	
	Examiner	Art Unit	
	Jeffrey R. West	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 September 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *139,140,144-146,150,153,155-159,162,164-168,171 and 173-187* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *139,140,144-146,150,153,155-159,162,164-168,171 and 173-187* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 June 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 139, 140, 144, 150, 155, 156, 159, 162, 164, 165, 168, 171, 173, and 174 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,916,291 to Givens et al.

With respect to claim 139, Givens discloses a system for performing after-care of a recipient of a cochlear implant (column 10, lines 49-58 and column 13, lines 47-53)

comprising: a clinician subsystem having a clinician interface (column 8, lines 63-66, column 9, lines 12-24, and column 16, lines 20-29) configured to receive one or more clinician inputs and, in response to the clinician inputs, at least one of select and customize a series of cochlear implant after-care tests (column 9, lines 35-43, column 15, line 59 to column 16, line 29 and column 18, line 59 to column 19, line 14) and a recipient subsystem (column 8, lines 57-63, column 10, lines 17-24, and column 15, lines 29-58) configured to receive the after-care tests from the clinician subsystem (column 20, lines 15-17 and column 23, lines 41-44 and 54-60) and wherein the recipient subsystem is configured to communicate with the cochlear implant and to perform series of after-care tests, substantially independent of the clinician subsystem, in response to a series of recipient inputs to generate result data indicative of the result of the after-care tests (column 12, lines 38-54, column 14, lines 48-56, and column 15, lines 8-19 and 48-66) for subsequent use by said clinician subsystem (column 13, lines 58-63), wherein the clinician subsystem is further configured to receive the result data from said recipient subsystem (column 9, lines 47-51).

With respect to claim 140, Givens discloses further comprising: a device interface configured to communicatively couple said recipient subsystem and the cochlear implant (column 10, lines 49-58, column 19, lines 34-59 and Figure 11).

With respect to claim 144, Givens discloses wherein said clinician subsystem and said recipient subsystem are physically remote with respect to one another and communicate via the Internet (column 8, line 57 to column 9, line 11).

With respect to claim 150, Givens discloses wherein the recipient subsystem is further configured to deliver the result data to the clinician subsystem, and further wherein the clinician subsystem is further configured to perform an assessment of the result data (column 18, lines 63-66).

With respect to claim 155, Givens discloses wherein said clinician subsystem is configured to initiate the series of after-care tests performed by the recipient subsystem (column 20, lines 17-23 and column 20, line 66 to column 21, line 8).

With respect to claim 156, Givens discloses a method for performing after-care of a recipient of a cochlear implant comprising (column 10, lines 49-58 and column 13, lines 47-53): receiving one or more inputs at a clinician interface (column 8, lines 63-66, column 9, lines 12-24, and column 16, lines 20-29), performing at least one of selection and customization of a series of cochlear implant after-care tests in response to the clinician inputs (column 9, lines 35-43 and column 15, line 59 to column 16, line 29, and column 18, line 59 to column 19, line 14), delivering said one or more after-care tests to a recipient subsystem (column 9, lines 35-43), performing the series after-care tests with the recipient subsystem, in response to a series of recipient inputs, substantially independent of the clinician subsystem to generate result data indicative of the result of the after-care tests (column 12, lines 38-54, column 14, lines 48-56, and column 15, lines 8-19 and 48-66), and delivering the result data to the clinician subsystem (column 9, lines 47-51 and column 13, lines 58-63).

With respect to claim 159, Givens discloses wherein the recipient subsystem further comprises a storage medium, and wherein the method further comprises storing said one or more after-care tests (column 14, lines 57-59).

With respect to claim 162, Givens discloses wherein said delivering said one or more after-care tests to the recipient subsystem comprises delivering said one or more after-care tests via the Internet (column 8, line 57 to column 9, line 11).

With respect to claim 164, Givens discloses wherein said performing said one or more after-care tests further comprises initializing the one or more tests being performed by the recipient subsystem with inputs received from the clinician interface (column 20, lines 17-23 and column 20, line 66 to column 21, line 8).

With respect to claim 165, Givens discloses a non-transitory computer readable medium comprising computer code instructions which, when executed by a computer system (column 8, lines 7-22), implement a method of performing after-care of a recipient of a cochlear implant (column 10, lines 49-58 and column 13, lines 47-53), the method comprising: receiving one or more inputs at a clinician interface (column 8, lines 63-66, column 9, lines 12-24, and column 16, lines 20-29), performing at least one of selection and customization of a series of cochlear implant after-care tests in response to the clinician inputs (column 9, lines 35-43 and column 15, line 59 to column 16, line 29, and column 18, line 59 to column 19, line 14), delivering said one or more after-care tests to a recipient subsystem (column 9, lines 35-43), comprising a recipient interface (column 8, lines 57-63, column 10, lines 17-24, and column 15, lines 29-58); performing the series of after-care tests with the

recipient subsystem, in response to a series of recipient inputs, subsystem substantially independent of the clinician subsystem (column 12, lines 38-54, column 14, lines 48-56, and column 15, lines 8-19 and 48-66) to generate result data indicative of the result of the after-care tests (column 9, lines 47-51 and column 13, lines 58-63), and delivering the result data to the clinician subsystem (column 9, lines 47-51 and column 13, lines 58-63)

With respect to claim 168, Givens discloses wherein the recipient subsystem further comprises a storage medium, and wherein the method further comprises storing said one or more after-care tests in the recipient subsystem (column 14, lines 57-59).

With respect to claim 171, Givens discloses wherein said delivering said one or more after-care tests to the recipient subsystem comprises delivering said one or more after-care tests via the Internet (column 8, line 57 to column 9, line 11).

With respect to claim 173, Givens discloses wherein said performing said one ore more after-care tests further comprises initializing the one or more tests being performed by the recipient subsystem with inputs received from the clinician interface (column 20, lines 17-23 and column 20, line 66 to column 21, line 8).

With respect to claim 174, Givens discloses a system for performing after-care of a recipient of a cochlear implant (column 10, lines 49-58 and column 13, lines 47-53) comprising: means for receiving one or more clinician inputs via a clinician subsystem (column 8, lines 63-66, column 9, lines 12-24, and column 16, lines 20-29) means for selecting and customizing a series of cochlear implant after-care tests

in response to the clinician inputs (column 9, lines 35-43, column 15, line 59 to column 16, line 29 and column 18, line 59 to column 19, line 14); means for delivering said series of after-care tests to a recipient subsystem (column 9, lines 35-43); means for proceeding through the series of after-care tests with said recipient subsystem, in response to a series of recipient inputs, substantially independent of the clinician subsystem (column 12, lines 38-54, column 14, lines 48-56, and column 15, lines 8-19 and 48-66), to generate result data indicative of the result of the after-care tests (column 9, lines 47-51 and column 13, lines 58-63), and means for delivering the result data to the clinician subsystem (column 9, lines 47-51 and column 13, lines 58-63).

Givens also discloses wherein at least one of the one or more after-care tests comprises a comparison of a measured neural response threshold to a previously measured neural response threshold (column 4, lines 3-10 and column 22, lines 11-35).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 145, 146, 153, 157, 158, 166, 167, 175-187, are rejected under 35 U.S.C. 103(a) as being unpatentable over Givens in view of U.S. Patent No. 5,626,629 to Faltys et al.

As noted above, the invention of Givens teaches many of the features of the claimed invention, and while the invention of Givens does teach testing, using customized tests, a cochlear implant which generates test results, Givens is not explicit in storing such tests/results in the cochlear implant. Further, while Givens does teach coupling the prosthesis to a recipient subsystem, Givens is not explicit in specifying that the coupling is via a cable. Further still, while Givens teaches performing a plurality of after-care tests, including a comparison of a measured neural response threshold to a previously measured neural response threshold (Givens; column 4, lines 3-10 and column 22, lines 11-35), Given is not explicit in specifying that at least one of the one or more after-care tests comprises a cochlear implant integrity check, determines whether the dynamic range of each of a plurality of electrodes is set correctly, and/or evaluates the effectiveness of the cochlear implant.

Faltys discloses a system for performing one or more tests (column 7, lines 10-13 and 22-26, column 8, lines 44-55, column 9, lines 6-16, and column 10, lines 10-12) on a cochlear implant having one or more implantable components implanted in a recipient (column 5, lines 19-21) comprising: a clinician subsystem, comprising a clinician interface (column 5, lines 35-50), configured to enable a clinician to provide one or more clinician input from said clinician interface to perform one or more of

selecting and customizing the one or more tests for the recipient (column 6, lines 51-55, column 7, lines 41-65, column 10, lines 26-53, and column 15, lines 34-55, and column 22, lines 51-53); and a recipient subsystem, comprising a recipient interface (column 5, lines 51-66), configured to receive one or more recipient input, from said recipient interface (column 4, lines 22-25), and to generate the result data (column 6, lines 51-55, column 14, line 53 to column 15, line 6), wherein said clinician subsystem is further configured to received said result data from said recipient subsystem (column 8, lines 10-43) wherein the cochlear implant is configured to store said selected or customized one or more tests (column 6, lines 51-55 and column 9, lines 40-61), store said result data (column 9, lines 57-61), and is coupled to said recipient subsystem using a cable (column 5, line 51 to column 6, line 17 and Figure 1). Faltys further teaches wherein at least one of the one or more after-care tests comprises a cochlear implant integrity check (column 16, lines 19-35), a comparison of a measured neural response threshold to a previously measured neural response threshold (column 7, lines 1-49 and column 8, lines 55-60), determines whether the dynamic range of each of a plurality of electrodes is set correctly (column 4, lines 2-4, column 9, lines 21-49, and column 10, lines 17-25), and/or evaluates the effectiveness of the cochlear implant (column 18, lines 15-22).

It would have been obvious to one having ordinary skill in the art to modify the invention of Givens to explicitly store the tests/results in the cochlear implant, as taught by Faltys, because, as suggested by Faltys, the combination would have improved the system of Givens by storing important information in the cochlear

implant itself so that the data will be readily available for future use and/or to provide to a clinician when the network connection fails or during routine in-office clinician visits (column 2, lines 51-65, column 6, lines 51-55 and column 9, lines 40-61).

It would have been obvious to one having ordinary skill in the art to modify the invention of Givens to explicitly specify that the coupling is via a cable, as taught by Faltys, because one having ordinary skill in the art would recognize a cable as a conventional means for connecting a cochlear implant to an interface and, as suggested by Faltys, the combination would have provides a suitable, accurate, and secure means for connecting the prosthesis and interface for communication in Givens (column 5, line 51 to column 6, line 17 and Figure 1).

It would have been obvious to one having ordinary skill in the art to modify the invention of Givens to explicitly specify that at least one of the one or more after-care tests comprises a cochlear implant integrity check, determines whether the dynamic range of each of a plurality of electrodes is set correctly, and/or evaluates the effectiveness of the cochlear implant, as taught by Faltys, because, as suggested by Faltys, the combination would have improved the overall operation of Givens by ensuring that the cochlear implant is subject to a wider variety of tests for a wider variety of conditions, thereby ensuring that the electrodes are in the correct sequence (column 16, lines 19-35), the electrodes are operating in a proper range (column 4, lines 2-4, column 9, lines 21-49, and column 10, lines 17-25), and that the device provides the best sounding operation (column 18, lines 15-22).

Response to Arguments

6. Applicant's arguments with respect to claims 139, 140, 144-146, 150, 153, 155-159, 162, 164-168, 171, and 173-187 have been considered but are moot in view of the new ground(s) of rejection.

The following arguments, however, are noted:

Applicant argues:

> 10. As the Examiner agreed during the above mentioned interview, Givens may allow patient interaction via a local device, but fails to disclose a system providing the recipient the ability to step through stages/tests. As amended, Applicants' claim 139 recites a system in which "a recipient subsystem configured to... communicate with the cochlear implant and to perform the series of after-care tests, substantially independent of the clinician subsystem, in response to a series of recipient inputs." (See, Applicants' claim 139, above; emphasis added.) Applicants submit that Givens fails to disclose such a system. In particular, Applicants submit that Givens fails to disclose any local device that enables a recipient to proceed through a series of after-care tests, via the recipient's input to the local device, substantially independent of a remote site.

The Examiner first notes that in the interview of September 09, 2010, no agreement was reached, but the Examiner did assert that it appears that any control of test parameters is performed by a clinician and the patient appears to only initiate a particular through an interface and, as such, possible amendments were discussed to provide specific limitations regarding recipient control of test parameters.

Further, after careful consideration of Applicant's arguments and a thorough re-reading of Givens, the Examiner disagrees with Applicant's interpretation of Givens and instead maintains that, with respect to claim 139, for example, Givens discloses a system for performing after-care of a recipient of a cochlear implant (column 10,

lines 49-58 and column 13, lines 47-53) comprising: a clinician subsystem having a clinician interface (column 8, lines 63-66, column 9, lines 12-24, and column 16, lines 20-29) configured to receive one or more clinician inputs and, in response to the clinician inputs, at least one of select and customize a series of cochlear implant after-care tests (column 9, lines 35-43, column 15, line 59 to column 16, line 29 and column 18, line 59 to column 19, line 14) and a recipient subsystem (column 8, lines 57-63, column 10, lines 17-24, and column 15, lines 29-58) configured to receive the after-care tests from the clinician subsystem (column 20, lines 15-17 and column 23, lines 41-44 and 54-60) and wherein the recipient subsystem is configured to communicate with the cochlear implant and to perform series of after-care tests, substantially independent of the clinician subsystem, in response to a series of recipient inputs to generate result data indicative of the result of the after-care tests (column 12, lines 38-54, column 14, lines 48-56, and column 15, lines 8-19 and 48-66) for subsequent use by said clinician subsystem (column 13, lines 58-63), wherein the clinician subsystem is further configured to receive the result data from said recipient subsystem (column 9, lines 47-51).

Specifically, with respect to the new limitations, the Examiner first asserts that the limitation of "a clinician subsystem having a clinician interface configured to receive one or more clinician inputs and, in response to the clinician inputs, at least one of select and customize a series of cochlear implant after-care tests" does not require any additional control by the patient/recipient. Instead, the Examiner asserts that this limitation only requires providing the clinician with the ability to customize a

series of cochlear implant after-care tests based on a received one or more clinician inputs. The Examiner maintains that Givens clearly discloses these features:

> As shown in FIG. 1, the test administration site 10 can be a medical center or university or other desired location from which one or more clinicians or audiologists can administer the test. (column 8, lines 63-66)
>
> In operation, the test is administered by a clinician or audiologist at the test administration site 10, remote from the patient site 20, in a manner which can allow interaction (typically one or more of a non-verbal, verbal, and/or visual communication interaction either one or two way) between the user and the clinician during at least a portion of the administration of the test. The diagnostic hearing tests can be performed such that they meet or comply with standardized guidelines such as the American National Standards Institute ("ANSI") requirements or other agency or regulatory standards, as desired for the particular testing authority in a particular jurisdiction. (column 9, lines 12-24)
>
> As described above, the system can be configured to allow the clinician at the test administration site 10 to control the test sequence and auditory hearing assessment tones from the remote administration site. Thus, the hearing test can be performed such that the hearing tones (frequency and decibel level) are generated and output locally at the patient site 20 in response to commands selecting the desired tone/level which are transmitted from the expert or test administration site to the local site via the computer network. (column 9, lines 35-43)
>
> The illustrated controls may be selected by a user at the test administration site 10 by, for example, clicking on, touching, or pointing to, the particular control in displayed by the web browser. Such a selection may cause an indication of the selection to be transmitted to the web server of the local device 50, 50'. For example, a CGI response would be provided to the web server indicating selection of the power on 110 pushbutton. The CGI response would be parsed by the web server of the local device 50, 50' and the results used to control the state of the local device 50, 50'. (column 16, lines 20-29)
>
> FIG. 7 illustrates an example of a web page 100 which may be served to the test administration site 10 by the local device 50, 50' to allow control of the local device 50, 50'. As shown, this web page 100 may be provided from the server of the local device 50, 50' to a client, such as a web browser, at the test administration site 10 and includes test control parameters which can be activated and/or adjusted by the clinician during the test. The test parameters shown include a power on control 110, a tone on 120, tone off 130, selectable

frequency, and independently selectable left and right intensity controls 146, 147. The power on control 110 can activate the tone generator 55 or function generator 56 at the local site 20 (deselecting this control then powers off or deactivates the tone generator 55). The tone on and tone off controls 120, 130 are typically operably associated with an attenuator and/or output switch and allows the clinician to control the length (or to initiate at desired intervals and terminate the sound when the response is indicated) of the tone signal output to the patient at the local site. The select frequency control 145 allows the clinician to adjust the test frequency and order of the testing protocol. The left and right intensity controls 146, 147 allow the clinician to adjust the intensity in the desired ear for each frequency selected. The data box 150 identifies the sound pressure level correction for each frequency. The exemplary screen display shown is for discussion purposes and, it is noted that, the screen layout, test parameters, and activation and/or control features may vary. (column 15, line 59 to column 16, line 29)

In certain embodiments, as shown in FIG. 11, the patient end device 20 includes an in-the-ear probe assembly 475 which is configured to transmit a stimulus signal or signals 480 into an ear of the subject and then sense (passively obtain) the desired emission or response signals 481. The detected or sensed response signals 481 are then relayed to the local device 450, where signal processing can occur, and then to the expert site 10 via the network 15 for evaluation. In operation, the test or stimulation signal 480 is output locally via the probe assembly 475 to the patient based on the desired test signals and/or parameters (and/or sequence) selected by the clinician at the remote site. In addition or alternatively, the parameters, sequence, or timing of the test may be altered or adjusted by the clinician at the remote site during the test. The clinician can, in certain embodiments, receive response data associated with the test stimulation protocol at certain intervals during the testing procedure or semi continuously or continuously during the test. The clinician can, as desired or needed, select, adjust, repeat, or test the other ear or otherwise manipulate the testing protocol during the evaluation depending on the patient's response or the detected ambient noise in the testing environment. (column 18, line 59 to column 19, line 14)

With respect to the new limitations requiring the recipient subsystem to communicate with the cochlear implant and to perform series of after-care tests, substantially independent of the clinician subsystem, in response to a series of

recipient inputs to generate result data indicative of the result of the after-care tests, the Examiner maintains that Givens discloses that the series of after-care tests which are configured by the clinician are transmitted to the patient subsystem. The recipient/patient steps through the series of tests by using a user interface to indicate that a particular test tone is heard at which time the series proceeds to the next test tone. As such, the series of after-care tests, selected and/or configured by the clinician inputs, are performed, substantially independent of the clinician subsystem, in response to a series of recipient inputs:

> In operation, the desired hearing tone presentation is output to the output device 60 and to the patient. In response, the patient can indicate a response to the tone to the input device 72. The input device 72 can be a voice activated or speech recognition input microphone, or a physical input port such as a keypad, button, screen-contact software switch, or physical switch. In certain embodiments, the input device can be (or include) a video camera 85 which is video linked to the test administration site 10 so that the clinician can visually monitor the patient's response during the test. Further, two individually operable input devices can be employed, one for use when the patient acknowledges a tone to the right ear and one for when the patient acknowledges hearing from the left ear. It will be appreciated that, in some embodiments, the input device may be on the output transducer 60 headset itself as an alternative to the housing body of the device 50. (column 12, lines 38-54)
>
> As shown, a processor 70p of the data processing system 70 receives commands from the clinician at the test administration site 10 and controls the function generator 56 and attenuator 57 to output the desired test sequence and tone to the headphones 60 to the client or patient. The data processing system 70 also includes a TCP stack 70t and Ethernet NIC 70n to provide the communication link 15c to the computer network 15 and to the test administration site 10. (column 14, lines 48-56)
>
> When the test sequence and tone are output, the patient indicates when a test tone is audible, such as by depressing the input switch 72. The activation from the input switch is relayed back to the processor 70p via an internal directional switch 172 which generates and/or selects a web page 70c to be

served to a client at the test administration site 10. In particular embodiments, the client at the test administration site is provide with a Java applet which causes the client to periodically request a web page from the local device 50. When the next web page is requested by the client, the processor 70p provides the generated and/or selected web page reflecting the activation of the input switch.

...

As shown in FIG. 5, the processor 70p, web pages 70c, TCP stack 70t and Enterhnet NIC 70n can be provided by the local computer 75. In this embodiment, the display screen and/or keyboard of the local computer 75 may be used as the input device 72 (or may be used along with an input device in the device 50'). Similarly, the video link described above may be provided by the local computer 75. The operational software needed to supplement the local operating system may be provided as a packaged product which is downloadable onto the local computer or may be provided at a URL location to be electronically downloadable therefrom.

FIG. 7 illustrates an example of a web page 100 which may be served to the test administration site 10 by the local device 50, 50' to allow control of the local device 50, 50'. As shown, this web page 100 may be provided from the server of the local device 50, 50' to a client, such as a web browser, at the test administration site 10 and includes test control parameters which can be activated and/or adjusted by the clinician during the test. (column 15, lines 8-19 and 48-66)

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,334,072 to Leysieffer teaches a system for performing a test on a hearing prosthesis implanted in a recipient (column 8, lines 24-26) comprising: a testing computer (column 6, lines 49-52) comprising a processor configured to process software instructions and to output signals in response to said processed software instructions (column 7, lines 38-52); a prosthesis interface configured to transfer said outputted signals from said testing computer to the hearing prosthesis interfaced with said testing computer (column 6, lines 45-64); and a recipient

interface configured to receive a control input from the recipient of the hearing and to cause said processor to perform said test in response to said control input (column 6, line 65 to column 7, line 7).

U.S. Patent No. 6,115,478 to Schneider teaches an apparatus for and method of programming a digital hearing prosthesis comprising a local system and computer and a remote system and computer wherein the remote system controls the local system to initiate synthesizing signals for transmission to the hearing prosthesis (column 9, lines 50-58).

U.S. Patent No. 6,879,693 to Miller et al. teaches a method and system for external assessment of hearing aids that include implanted actuators.

U.S. Patent Application Publication No. 2002/0176584 to Kates teaches an apparatus and methods for hearing aid performance measurement, fitting, and initialization.

U.S. Patent No. 6,366,863 to Bye et al. teaches a portable hearing-related analysis system.

U.S. Patent No. 6,115,478 to Schneider teaches an apparatus and method of programming a digital hearing aid.

U.S. Patent No. 4,847,617 to Silvian teaches a high speed digital telemetry system for implantable devices.

U.S. Patent No. 5,609,616 to Schulman et al. teaches a physician's testing system and method for testing an implantable cochlear stimulator.

U.S. Patent No. 7,181,297 to Pluvinage et al. teaches a system and method for delivering customized audio data.

EP Patent Application Publication No. 0 124 930 to Crosby et al. teaches a cochlear implant system for an auditory prosthesis.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY R. WEST whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on (571)272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey R. West/
Primary Examiner, Art Unit 2857

November 23, 2010